

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING**

DATE..... July 16, 2003
 TIME..... 7:00 P.M.
 PLACE..... County Office Building
 20 N. 3RD Street
 Lafayette, IN 47901

MEMBERS PRESENT

Jack Rhoda
 John Knochel
 KD Benson
 Jeff Kessler
 Gary Schroeder
 Steve Schreckengast
 David Williams
 Ashley Stevenson
 Jan Mills
 Karl Rutherford
 Mark Hermodson
 Kathy Vernon
 James Miller

MEMBERS ABSENT

Laura Peterson
 Stuart Boehning

STAFF PRESENT

James Hawley
 Sallie Fahey
 Margy Deverall
 Kathy Lind
 Jay Seeger, Atty
 Michelle D'Andrea

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 16th day of July 2003, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Jack Rhoda called the meeting to order.

I. BRIEFING SESSION

James Hawley informed the Commission that the following cases needed to be continued to the July 24, 2003 special meeting: **UZO AMENDMENT #39; Z-2134—WILLIAM M. FLEISCHHAUER (STATE STREET TOWERS PLANNED DEVELOPMENT)(PDNR TO PDMX); Z-2137-JAMES FARMER (I3 TO GB); S-3353- BILYEU MINOR SUBDIVISION (MINOR SKETCH PLAN); S-3355-DAUGHTERY SUBDIVISION (MINOR SKETCH); S-3356-SCHMIDT HAUS SUBDIVISION (MINOR SKETCH); S-3357-STONES CROSSING SUBDIVISION, SECTION 3 (MAJOR-PRELIMINARY PLAT); S-3358-CRIBS R3 SUBDIVISION (MAJOR- PRELIMINARY PLAT); S-3362-BIERY MINOR SUBDIVISION (MINOR SKETCH); S-3363-SHORTER COMMERCIAL SUBDIVISION, SECTION 3 (MAJOR-PRELIMINARY PLAT) and S-3364-BOSMA MINOR SUBDIVISION (MINOR-SKETCH PLAN).** He stated that the following case would have to be continued to the August 20, 2003 meeting: **Z-2135--AARON TYRRELL AND BETHANY TYRRELL (R1 TO NB)** due to a defective filing; **Z-2136--DANNY E. AND HENRIETTA Y. PATTENGAL (GB TO R1)** due to a defective filing; and **Z-2138--NORMAN G. BENNETT AND DOLORES J. BENNETT (AW TO RE)** as per their request. He said that **Z-2133-O'MALLEY-WHITE DEVELOPMENT, INC. (NB TO GB)** needed to be continued to the September 17, 2003 per their request.

II. APPROVAL OF MINUTES

Jeff Kessler moved to approve the minutes of the June 18, 2003 public hearing. Mark Hermodson seconded and the motion carried by voice vote.

III. NEW BUSINESS

A. RESOLUTION 03-01: Authority of the Executive Director

Jeff Kessler moved to hear and approve the above-described request. KD Benson seconded the motion.

Jay Seeger informed the Commission that this Resolution was a result of discussion at the Efficiency Work Sessions. He explained that the statute allowed the Executive Director to hire and fire employees with consent of the Plan Commission. He stated that this Resolution give the Executive Director express authority, without prior approval for any staff position below the Assistant Director.

Karl Rutherford stated that he had some concerns. He said that he did not understand why the Commission would want to give up an authority granted to them by State Statute. He mentioned that the only time that this procedure has been used was with the hiring of the house-numbering clerk, which took 5 minutes of the Commission's time. He pointed out that in 6 months there is going to be a new director that the Commission has no knowledge of. He said that he would be hesitant to give up this authority to someone that he knows, trusts and respects. He wondered why the Commission would want to give this authority away to someone they did not know.

Mark Hermodson pointed out that in any organization, when an executive is hired, the hiring body must trust that executive on some level. He said that given the credentials that are required of an Assistant Director, the Commission should at least review those candidates. He stated that he did not feel comfortable judging or deciding on staff positions. He stated that executive should have a fair amount of leeway and authority. He said that he strongly supports this Resolution for the purposes of office efficiency.

John Knochel stated that he agreed with Mark Hermodson's comments. He mentioned that there is not any department in the County where the department head does not have the responsibility to hire and fire their staff. He said that even though the Executive Director is not directly a County employee, that position is still a department head and needs that authority. He pointed out that if the Commission does not agree with the Executive Director's performance then action could be taken.

Gary Schroeder stated that if the current Executive Director was going to stay, then he would be in favor of this Resolution. He said that he could support this better after the new Director has been in place for some time.

Steve Schreckengast pointed out that there has never been a review of the Executive Director. He agreed with Gary Schroeder and Karl Rutherford. He suggested waiting until the new Director is in place and reviewing it then.

Jan Mills pointed out that the Commission will be selecting the new director themselves, have set criteria for that choice and should have confidence in who they choose. She said that she couldn't imagine someone wanting to come into that position without that authority. She mentioned that candidates might not be interested in the position if it was going to be micro-managed by the Commission.

KD Benson mentioned that any candidate for this position should be informed on the statute that created the Commission and this authority. She stated that she is concerned about challenging State law. She said that she has no problem with the middle portion of this Resolution, which allows immediate termination of an employee that violates any personnel policy. She mentioned that the only opportunity that the Commission has to review the organization is when hiring is taking place.

David Williams moved to send **RESOLUTION 03-01** to the Budget and Personnel Committee for review and recommendation to the Commission at their discretion, but before January 2004. Steve Schreckengast seconded and the motion passed by voice vote.

IV. PUBLIC HEARING

Jeff Kessler moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Kathy Vernon seconded and the motion carried by voice vote.

Jack Rhoda read the meeting procedures.

Jeff Kessler moved to continue **UZO AMENDMENT #39; Z-2134—WILLIAM M. FLEISCHHAUER (STATE STREET TOWERS PLANNED DEVELOPMENT)(PDNR TO PDMX); Z-2137-JAMES FARMER (I3 TO GB); S-3353- BILYEU MINOR SUBDIVISION (MINOR SKETCH PLAN); S-3355-DAUGHTERY SUBDIVISION (MINOR SKETCH); S-3356-SCHMIDT HAUS SUBDIVISION (MINOR SKETCH); S-3357-STONES CROSSING SUBDIVISION, SECTION 3 (MAJOR-PRELIMINARY PLAT); S-3358-CRIBS R3**

SUBDIVISION (MAJOR- PRELIMINARY PLAT); S-3362-BIERY MINOR SUBDIVISION (MINOR SKETCH); S-3363-SHORTER COMMERCIAL SUBDIVISION, SECTION 3 (MAJOR-PRELIMINARY PLAT) and S-3364-BOSMA MINOR SUBDIVISION (MINOR-SKETCH PLAN) to the July 24, 2003 special APC meeting at 7:00 pm. Kathy Vernon seconded and the motion carried by voice vote.

Jeff Kessler moved to continue Z-2135--AARON TYRRELL AND BETHANY TYRRELL (R1 TO NB); Z-2136--DANNY E. AND HENRIETTA Y. PATTENGAL (GB TO R1); and Z-2138--NORMAN G. BENNETT AND DOLORES J. BENNETT (AW TO RE) to the August 20, 2003 public hearing at 7:00 pm. Kathy Vernon seconded and the motion carried by voice vote.

Jeff Kessler moved to continue Z-2133-O'MALLEY-WHITE DEVELOPMENT, INC. (NB TO GB) to the September 17, 2003 meeting. Kathy Vernon seconded and the motion carried by voice vote.

A. ORDINANCE AMENDMENTS

1. **ORDINANCE AMENDMENT #38 (OMNIBUS AMENDMENT):** Includes proposed changes to: drive-thru message boards, 50' special setback along South River road, and a minor correction to the RV park section regarding floodway. **CONTINUED FROM THE JUNE MEETING.**

Jeff Kessler moved to hear and approve the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey recapped the history of these changes and substitutions and read the staff report with recommendation of approval. She reminded the Commission that there are three sections to this amendment.

Jack Rhoda reviewed the procedures to change the amendment to include the substitutions.

Karl Rutherford asked if a different size set back was discussed at the last meeting.

Mark Hermodson stated that there was some discussion of a small number, but by changing some definitions in the ordinance, the setback issue can be avoided altogether.

Mark Hermodson moved to amend ORDINANCE AMENDMENT #38 to include the substitutions presented in the staff report. Jan Mills seconded the motion.

John Knochel asked for elaboration on the change from floodplain to floodway.

Sallie Fahey explained that the floodway and floodway fringe are portions of the floodplain. She reviewed the definitions of floodway, floodway fringe and floodplain.

Charles Schelle, 4900 Division Road, West Lafayette, IN, stated there are campers in the floodway and flood plain out at the Fort Every Fall. He said that a 10-foot increase in setbacks is not needed unless it only applied to signs.

Mark Hermodson explained that the substitution would eliminate any change in the setbacks.

Charles Schelle stated that in situations that affect the homeowners there should be additional notification and not just the newspapers. He said that is common courtesy.

The motion to amend ORDINANCE AMENDMENT #38 carried by voice vote.

The Commission voted by ballot 13 yes – 0 no to recommend approval of ORDINANCE AMENDMENT #38 (OMNIBUS AMENDMENT).

B. REZONING ACTIVITIES

1. **Z-2118—MANDALAY DEVELOPMENT, LLC (ASHBURY VILLAS PLANNED DEVELOPMENT)(R3 AND R1 TO PDRS):** Petitioner is requesting rezoning for a 172-unit / 17 building condominium complex. The 12.63 acre site is located on

the south side of proposed Twyckenham Boulevard extension, between Poland Hill Road and Old US 231, in the City of Lafayette, Wea 5 (NW) 22-4.

CONTINUED FROM THE JUNE MEETING.

Jeff Kessler moved to hear and vote on the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey read the staff report with recommendation of conditional primary approval contingent on the following:

Meeting all requirements of *UZO* 2-27-10 for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. all sheets (other than preliminary plat) that make up the approved Preliminary Plan;
2. a final plat per *UZO* Appendix B-3-2 as applicable;
3. a proposed phasing plan prepared for the entire project submitted with Final Detailed Plans. Phase one must show common area improvements and amenities that include all storm water management facilities, north playground and walking trail except the portion next to the drainage easement. Subsequent phases must show all common area improvements and amenities installed or bonded for by the time 50% of the project is constructed.
4. All title sheets and covenant documents referencing the project as "Arbor Pointe Apartments" or "Arbor Pointe Development" must be changed to read "Ashbury Villas Planned Condominium Development"

James Hawley presented slides of the zoning map and aerial.

Sean Persin 8 North 3rd Street, Lafayette, IN, stated that the petitioner is present. He mentioned that because the petition has been reduced from 210 units to 172 units, it is much less dense. He pointed out that it has also been changed from rental units to homeowner units. He asked for approval.

Jan Mills asked if sidewalks were included throughout the entire development.

Matt Smith, 60 Waterfall Court, Lafayette, IN, stated that there would be a walking trail, but that sidewalks had not been discussed with the City yet.

Margy Deverall stated that sidewalks had been discussed and the plan was changed to include them on one side of all interior streets of the development.

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2118—MANDALAY DEVELOPMENT, LLC (ASHBURY VILLAS PLANNED DEVELOPMENT)(R3 AND R1 TO PDRS)** to the Lafayette City Council.

2. **Z-2124—MICHAEL A. DILLING (R2 TO NBU):**

Petitioner is requesting rezoning of 8,466 square feet of land located at the southeast corner of 9th and South Streets (901 South Street), Lafayette, Fairfield 28 (NW) 23-4. CONTINUED FROM THE JUNE MEETING.

Jeff Kessler moved to hear and approve the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey stated that the entire staff report for this case was read at the May 2003 meeting. She waived the reading of the staff report in favor of answering questions raised at the May 2003 meeting. She stated that if the property remains R2, there would be a 60-foot set back from both 9th Street and South Street and a 25-foot rear setback from the angled portion. She explained that those requirements would render the site totally unbuildable. She stated that if the property was rezoned to NBU there would be zero setbacks from both 9th Street and South Street and a 15-foot rear setback. She said that according to the City of Lafayette's Redevelopment Department there is a 40-50-foot utility easement across the former railroad portion. She explained that this would allow a space of 8-feet for expansion. She said that either zone would not have any effect on the property's build-ability. She stated that the City of Lafayette confirmed that parking would be allowed on the utility easement, but not construction on the easement. She pointed out that the building is part of the Historic Preservation District; therefore any

change to the building would have to have the approval of the Historic Preservation Officer. She said that as a non-conforming use, the owner would not be allowed to change the cubic content of the building or add on, but parking could be added in the rear.

James Hawley presented slides of the zoning map and aerial photo.

KD Benson asked if the building could be expanded to the sidewalks as an NBU zone.

James Hawley stated that would be up to the Historic Preservation Board.

KD Benson asked for confirmation that the cubic content could be changed.

James Hawley stated not as a non-conforming use.

Steve Schreckengast asked for confirmation that a zone of R2 would prohibit adding on to the building.

Mark Hermodson stated that R2 would not allow any changes to the building.

Steve Schreckengast asked for confirmation that a zone of R2 would allow additional parking.

Several members replied affirmatively.

Steve Schreckengast asked for confirmation that a zone of NBU would allow adding on to the building.

KD Benson replied only with approval of the Historical Preservation Board.

Jan Mills pointed out only 8-feet of building space would be available.

KD Benson pointed out that additions could be added vertically, with approval of the Historical Preservation Board.

Sallie Fahey stated that there would be 8-feet available to build on in the rear, but the front could be expanded right up to the sidewalk with a zone of NBU.

Steve Schreckengast pointed out that parking requirements would still have to be met under those circumstances. He asked if variances would be required to do that.

Sallie Fahey replied negatively.

Steve Schreckengast mentioned that at the last meeting the possibility of a PD was suggested. He asked if the petitioner had discussed that possibility with the staff.

Sallie Fahey replied negatively.

Jeff Kessler asked how much more parking would be allowed. He pointed out that this is a difficult area for traffic flow.

Sallie Fahey explained that right now the building is non-conforming, and therefore the parking is fine. She said that additional parking would be allowed whether it remained R2 or was rezoned to NBU because it would make it more conforming. She reiterated that the City of Lafayette said that parking would be allowed on the utility easement. She mentioned that the access to the street would be the decision of the City Engineer and the Traffic Commission.

James Hawley pointed out that if the zone were NBU, the first floor would have to remain commercial.

Michael Dilling, 901 South Street, Lafayette, IN, stated that he purchased the property in 1989 under the zone of GB. He reviewed the history of the different businesses that have occupied that site. He explained that in 1989 he purchased the building and improvements and Norfolk Railroad owned the land.

He stated that unbeknownst to him, in 1999 the property was rezoned to R2 because of railroad relocation. He said that there were no signs posted regarding this rezoning so he did not find out about it until he bought the land from the City. He recapped the other businesses and their zones located on this intersection. He mentioned that there is a vacant lot to the northeast of this property that was recently rezoned to NBU. He stated that he wants to restore the business zoning so that he is no longer in a non-conforming use. He explained that this would allow him to redo the roof from a flat roof to a pitched roof, which would help the leaking. He pointed out that the staff's recommendation is for approval.

Kevin O'Brien, 909 South Street, Lafayette, IN, stated that he was the Executive Director of the Historical Association and was representing the Fowler House. He informed the Commission that the Historical Association was interested in buying this property and has been in negotiations with Michael Dilling. He stated that the Historical Association does want the property and considers it a critical part of the Fowler House structure. He said that the ability to expand this building would be a detriment to the Fowler House and to the City. He reiterated that there was an offer on the table to purchase this property.

Sandy Lahr, 822 Kossuth Street, Lafayette, IN, presented pictures and gave a history of the property starting in 1878. She stated that she is requesting that the property remain R2 because it has 16 uses allowed by right and 11 by special exception. She pointed out that as NBU there are 121 permitted uses and 3 by special exception. She gave several examples of the different types of uses that would be allowed. She stated that she has researched the UZO to see how far expansion could go. She stressed that this is the gateway to an historic neighborhood. She informed the Commission of other projects underway to restore homes next to and behind the Village Pantry. She mentioned that there have been negotiations with Village Pantry to improve their site. She stated that the City of Lafayette is working on the South 8th Street project. She said that although this property is small it is very important to several historical neighborhoods. She stated that NBU would not help the neighborhood.

Michael Dilling stated that he understood the concerns of the neighborhoods and the Historical Association. He said that he has been a business owner and has lived in the community his entire life and has the same concerns. He stated that he feels that he is being restricted to what he can do for his business.

Steve Schreckengast asked what level of improvement was allowed on a non-conforming use. He asked if the main intent was to put a pitched roof on the building, pending the approval of the Historical Preservation Board.

Michael Dilling stated that was one of his goals. He said that he also wanted to comply with the other three corners of that intersection and restore a zone that was there before.

Steve Schreckengast pointed out that there were more restrictions on this property than the other three corners, due to the size. He asked Michael Dilling if he was opposed to looking into the PD process.

Michael Dilling stated that he was not opposed to discussing the PD option.

Karl Rutherford asked if a pitched roof counted as increasing the size of the building.

Steve Schreckengast replied negatively. He said that it might be over the level of improvement allowed on a non-conforming use.

James Hawley stated that determination would have to be made by the Administrative Officer. He said that in his opinion a pitched roof would not increase the cubic size of the building because it is not occupied space, unless it was a useable attic, or a storage attic. He stated that discretionary repair and maintenance may be done on any non-conforming use or structure if the cost does not exceed 30% of replacement cost, in a three-year period. He deferred to the Administrative Officer, the City Engineer, for confirmation.

John Knochel asked for confirmation as to when Michael Dilling purchased the property.

Michael Dilling stated that he bought the building in 1989, and it was rezoned in 1999.

John Knochel asked for confirmation that the railroad owned the property and that Michael Dilling was not notified when it was rezoned.

Michael Dilling replied affirmatively.

John Knochel asked when the ground was purchased.

Michael Dilling replied that he purchased the ground in October of 2002.

John Knochel asked if the railroad notified Michael Dilling that the land was going to be on the market or offered him the option of moving or selling the building.

Michael Dilling replied negatively.

John Knochel informed the Commission that he was in the same situation at one point and wondered if Michael Dilling was given the same options.

Michael Dilling stated that the railroad did not notify him. He said that he did not know the land was for sale until the City of Lafayette put it on the market.

KD Benson asked if Michael Dilling was aware of the zoning at the time he purchased the ground.

Michael Dilling replied negatively.

KD Benson mentioned that was something that he should have checked out.

Michael Dilling explained that he was unaware of the 1999 rezoning and when he purchased the land, assumed it was still the original zone of GB.

KD Benson stated that the confusion stems from Michael Dilling being unaware of the zoning, and rezoning and yet is requesting a rezoning for no reason.

Michael Dilling explained that if he builds a pitched roof with storage space or make any changes, he has to get approval from other entities.

Several members replied that would have to be done anyway because of the historic nature of the building.

Michael Dilling stated that he was not aware that he also had to go through the Historical Preservation Board.

KD Benson stated that this was an important location and that would not change.

Karl Rutherford commended the Historical Association's attempt to buy the property. He asked for confirmation that Michael Dilling has not yet accepted the offer.

Michael Dilling replied affirmatively.

Karl Rutherford asked for confirmation that Michael Dilling was willing to discuss the offer, but a price has not been agreed upon yet.

Michael Dilling replied affirmatively.

Steve Schreckengast stated that he was in favor of this property being used as a business and not multi-family. He said that whether or not the Historical Association purchases the property is not a factor in this case. He stated that due to the nature of this site a planned development would be a better application.

The Commission voted by ballot 7 yes – 6 no on **Z-2124—MICHAEL A. DILLING (R2 TO NBU).**

Yes votes

Ashley Stevenson
James Miller
John Knochel
Jack Rhoda
Karl Rutherford
David Williams
Gary Schroeder

No votes

Kathy Vernon
Jeff Kessler
Steve Schreckengast
KD Benson
Jan Mills
Mark Hermodson

Jack Rhoda stated that this case would be heard at next month's meeting due to a lack of majority vote.

3. **Z-2125—MANN PROPERTIES, LLP C/O TIM STEVENS (A TO R1B):** Petitioner is requesting rezoning of a 76.63 acre tract for a proposed 244 lot single-family subdivision located at the southeast corner of CR 450 S and Concord Road, Wea 15 (SE) 22-4. CONTINUED FROM THE JUNE MEETING AT PETITIONER'S REQUEST.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey read the staff report with recommendation of approval. She read into the record the following letters in opposition:

Raymond and Diane Gee, 5082 Glacier Way, Lafayette, IN.

Larry Underhill, 5 Concord Place, Lafayette, IN.

James and Janice Coddington, 1 Concord Place, Lafayette, IN.

James Hawley presented slides of the zoning map, 2 aerial photos and site plan.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN 47901, presented display boards of an aerial photo and site plan. He explained that a continuance was requested last month so that the petitioner could provide more information to neighbors. He presented a letter sent by the petitioner to the neighbors. He referred to the staff report's comment that this is a well-timed and appropriate opportunity for this property. He said that the goal is to have a well-planned subdivision that fits well with the surrounding developments. He pointed out that this development will be less dense than Benjamin Crossing, have internal open spaces, 40-foot bufferyards and be user and neighbor friendly. He said that all the proper government agencies have been consulted. He mentioned that the issues of 500 S. and 450 S. were being addressed with the County Highway Department. He pointed out that this development is in agreement with the Comprehensive Plan. He said that the utilities are present.

Dennis McDole 4621 S. 250 E. Lafayette, IN, informed the Commission that an informal meeting was held in May and letter from the petitioner addressed a lot of the concerns brought up by the neighbors. He said that his main concern was the high water level and shallow wells. He mentioned that the wells would be affected when the digging starts. He stated another concern is that there are tiles underneath this area that drain the water table away from the homes. He said that through conversations with local contractors, he learned that most would simply ignore those tiles. He asked what would happen if he were forced to go on City sewer and water. He asked what would happen to the drainage that might force his septic system to fail. He said that he is not opposed to a subdivision or to growth. He stated that he is opposed to high density. He said that this area should be zoned R1 because of the surrounding areas that are already zoned R1. He questioned the fact that there was no waiting period between the digging of the first Benjamin Crossing and construction. He pointed out that all the money being spent on these developments is being spent in Indianapolis and they are shipping in all the supplies instead of buying them locally. He recommended a site visit.

Curtis Miller, 5434 S. 250 East, Lafayette, IN, stated that he is opposed to the R1B zone. He said that the houses are too close together. He mentioned that this area has always been farmland. He said that he is within eyesight of the run off and is concerned about it. He mentioned that his property value would go down.

Jack Rhoda asked the staff to review the differences between R1 and R1B.

James Hawley explained that R1 requires minimum 10,000 square foot lots, 75-feet wide. He said that the R1B allows 6,000 square foot lots, 60-feet wide. He stated that in this circumstance both would have to be on sanitary sewer.

James Lahrman 5412 S. 250 E. Lafayette, IN, stated that he was part owner of the adjacent hog farm. He said that this development does not fit this community. He pointed out that 244 homes on a 76-acre site, averages out to 5 homes per acre when the park areas are figured in. He mentioned that the smell from the hog farm would not stop at the setback line. He mentioned that this development would only increase the number of complaints he received regarding the odor. He asked if the schools had been consulted on the how this development would impact them. He reiterated the comments that the first subdivision by these developers is using materials from Indianapolis, and not generating revenue here. He said that he was not opposed to the subdivision but opposed to the high density. He informed the Commission that the neighbors have always gotten along with the hog farm. He pointed out that it would be difficult to get along with 1000 new neighbors. He asked for denial. He said that he farms this land even though the staff's report states this land should not be agriculture. He mentioned that he and his parents have lived in this area their entire lives. He said that he is not in favor of the high density because of the low-income families that would be moving in. He stated that this would be a drain on the schools, increase in traffic and increase in run off to the pond. He stated that this was not a good fit for this piece of property.

Anthony Pilotte 4706 South 250 East, Lafayette, IN, stated that he has lived across the road from this proposed development for 18 years and the hog smell is very strong. He pointed out that the staff report recommended this site for a high density development, even though they did not research enough to know there was a hog farm nearby. He said that there is a lot of agricultural traffic up and down Concord Road. He mentioned that there are 690 new homes to the north that would be adding to that traffic. He stated that the only reason they are building this is because the utilities are present. He said that this area should be an R1 district. He stated that it was not appropriate to have that many homes that far out in the country. He pointed out that if this were approved, it would open the door for even more R1B.

Jean Snoeberger, representing his mother, Janice Snoeberger 4703 South 250 East, Lafayette, IN, stated that he was the Attica Chief of Police. He stated that his concern was the traffic flow. He said that Concord Road was not a very good road and could not support 600 additional houses in Benjamin Crossing, 244 in this development and 100 houses in Stones Crossing. He mentioned that even though there would be improvements on Concord Road it is not likely that it will support the increased traffic. He referred to the traffic count in the staff report and pointed out that the traffic will increase to 5300 cars a day, conservatively. He explained that all of the new houses would have at least 2 cars traveling the road at least twice a day, which will increase the traffic count three times. He mentioned that it would take 5-10 years to improve the road to a standard that could handle that kind of traffic. He said that even though the Sheriff's Department responds to traffic issues and problems on this road, budget restrictions make it impossible to have it covered on a regular basis.

In rebuttal, Joseph T. Bumbleburg stated that all the complaints heard here tonight have already been addressed by the developer and in the staff report. He mentioned that if traffic were going to be a problem, the staff would not have recommended approval. He pointed out that if the developer does not improve and reconstruct CR 450S then when would the County have the money to do it. He stated that the developer would be granting right-of-way, and if they didn't when would the County have the money to buy that right-of-way. He stressed that if the developers don't start contributing, then it will be years before the County would have the funds to make these improvements. He referred to the comment that this development was "boxes". He explained that this is a planned development and was designed to have those kinds of features. He stated that the developer couldn't ignore a drain tile. He said that the developer has a legal obligation to have drains one way or another. He stated that this development is not high density and the homes will not be cheap. He said that the homes would cost between \$100,000 and \$200,000. He mentioned that it is unrealistic that the developer is trucking in all the supplies from Indianapolis. He pointed out that all the real estate agents that will be selling these home would be local and those dollars would be circulated back into this community.

KD Benson stated that she has visited these sites and there have been some valid issues raised. She said that she has mixed feelings on this topic and views it one way as an Area Plan Commissioner and another as a County Commissioner. She mentioned that powdered concrete, along with other supplies, are shipped in from Indianapolis. She asked what the maximum number of houses could be in an R1B area of this size.

Sallie Fahey stated that this plan is 245 homes. She explained that there would have to be a different street layout to determine how many could fit. She stated that they have already submitted one revision, which lowered the count by a few lots. She said that this development is pretty close to being as dense as is allowed in this district. She stated that if every bit of park area was used and streets were reconfigured, there might be a few more homes that could be added.

KD Benson recapped the surrounding areas.

Sallie Fahey informed the Commission that this was originally submitted as a planned development, but it fit perfectly into the R1B zone.

James Miller stated that there was going to be an odor one way or another. He referred to Staley's as an example.

Steve Schreckengast said that he also had mixed feelings on this case. He stated that he was in the building business, but does not compete in this price range, but does build in this area. He mentioned that there is a very dense project to the north of this development. He compared the developments in this area with the developments on South 18th Street. He said that he liked the idea of mixing things up and not having all high density in one place. He agreed that this should be residential, but thought it would be better as an R1 zone.

Jack Rhoda pointed out that the neighbors do not oppose the development, but oppose the zone of R1B. He said that he agreed that R1 would be a better zoning district.

The Commission voted by ballot 3 yes – 10 no to recommend denial of **Z-2125—MANN PROPERTIES, LLP C/O TIM STEVENS (A TO R1B)** to the Tippecanoe County Commissioners.

Yes votes

Gary Schroeder
Karl Rutherford
Jan Mills

No votes

David Williams
Steve Schreckengast
Mark Hermodson
KD Benson
Jeff Kessler
Kathy Vernon
James Miller
Ashley Stevenson
John Knochel
Jack Rhoda

4. **Z-2127—RONALD D. KOEHLER & CINDY KAY MARSH (R1 TO NB):**

Petitioners are requesting rezoning of a 10.0 acre tract located on the west side of Dayton Road, approximately 300' south of the railroad tracks in the Town of Dayton, Sheffield 9 (NW) 22-3. CONTINUED FROM THE JUNE MEETING.

Jeff Kessler moved to hear and approve the above-described requests. Kathy Vernon seconded the motion.

Sallie Fahey recapped the staff report's recommendation of denial.

James Hawley presented slides of the zoning map and aerial photo.

Sallie Fahey read into the record the following new letter in opposition:
La Donna Snyder, 742 Shady Lane, Dayton, IN.

Daniel Teder, PO Box 280, Lafayette, IN, presented a petition to the Commission containing 105 signatures of area residents in support of this request. He stated that this is an opportunity for Indiana to have an historic village in Dayton. He said that there would be no tax dollars involved and all funding would come from the petitioners. He stated that this project would take 5-10 years to develop. He said that the petitioners plan on selling antiques. He stated that all of the surrounding land is owned by the petitioners. He said that this will be an asset to the community and the Town Board of Dayton supports it. He stated that they will be placing a covenant on this land that states when it is no longer used as a historic site or antiques are no longer sold there it will revert back to the R1 zone. He asked for approval.

Mike Boas, 740 Shady Lane, Dayton, IN, stated that he was in support of this petition. He pointed out that if it were not for the petitioner, the area in question would be a lot denser. He said that the petitioners were great neighbors.

Tracy Rosa, 294 Dayton Road, Dayton, IN, stated that he moved to Dayton because it was spread out and very spacious. He said that he is a local business man. He mentioned that this project would allow people to learn about their heritage while still maintaining that small town feel. He asked for approval.

Jamie Braton 736 Walnut Street, Dayton, IN, stated that he owns a business in Dayton and supports this petition.

Tammy Linegack 7315 Wesleyan Drive, Dayton, IN, stated that her detailed comments regarding this petition could be found in the minutes from last month's Area Plan Commission meeting. She said that she still supports this petition.

Robert Bowman 1091 Republican Street, Dayton, IN, stated that he feels this should be a planned development. He said that he agrees that this is a good plan and that the petitions have done a lot for the community, but it would be just as effective as a planned development.

James Hawley asked if a covenant could change zoning.

Jay Seeger replied negatively.

James Hawley explained that if this zone is changed to business, there could never be a residential use built there again. He stressed that a covenant is well intentioned, but does not change zoning.

Daniel Teder pointed out that the covenant is to protect against a time when the petitioners are no longer in control of this land.

Mark Hermodson stressed that the issue is not whether anyone was against the project, but whether this was the proper zone to use. He agreed that this was a good project and the testimony of the petitioner's character was encouraging. He stated that the problem is with the NB zone and he agreed with Robert Bowman that this would be better as a PD.

James Miller asked if there was a time limit on a planned development.

Jay Seeger stated that if the planned development provided that it would only be used for the historic village, once it stopped, it would not fall back into a straight business use.

Several members stated that it would have to be rezoned at that point.

James Miller asked if it would be a problem if it took 15 years to develop.

Several members responded no.

KD Benson pointed out that the problem with a PD is they would have to decide all the specifics right now.

Steve Schreckengast stated that he supported this petition for the same reasons he stated at last month's meeting. He pointed out that this is not a high visibility site and high visibility is very important in business.

Daniel Teder reiterated that the Town Board of Dayton supports this petition as well as the 105 Dayton residents that signed the petition.

Mark Hermodson stressed that the people in support are looking at the overall project and not at what can happen in an NB zone.

Daniel Teder stated that he understood Mark Hermodson's comments. He said that a planned development is placing a much greater burden on the petitioners than is necessary.

Karl Rutherford asked if there was some other vehicle available instead of a covenant that would work.

Jay Seeger stated that a covenant is the same thing as a deed restriction.

KD Benson asked if an historic village could be in an R1 zone.

Several members replied that items would be sold on site.

Sallie Fahey explained that a historic village as a museum could be in an R1 zone, but all the business components require a commercial zone.

The Commission voted by ballot 10 yes – 3 no to recommend approval of **Z-2127—RONALD D. KOEHLER & CINDY KAY MARSH (R1 TO NB** to the Dayton Town Council.

Yes votes

Gary Schroeder
David Williams
Jack Rhoda
KD Benson
Steve Schreckengast
Kathy Vernon
Jeff Kessler
John Knochel
Ashley Stevenson
James Miller

No votes

Karl Rutherford
Jan Mills
Mark Hermodson

5. **Z-2129—R. GREGG SUTTER (Abingdon Rural Estate) (AW TO RE):**
Petitioner is requesting rezoning of an 11.252 acre tract located west of CR 725 W, and $\frac{3}{4}$ of a mile north of Division Road, Shelby 24 (NE) 23-6. CONTINUED FROM THE JUNE MEETING AT PETITIONER'S REQUEST.

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey read the revision to the staff report with recommendation of approval.

James Hawley presented slides of the zoning map, 2 aerial photos and plat.

Bob Gross, 420 Columbia Street, Ste 100, Lafayette, IN, stated that the petitioner has met with the neighbors and reduced the petition from 5 lots to 4 lots, which changes the average lot to 2.5 acres.

Suzanne Collins, 7602 Amanda Lane, Lafayette, IN referred to the site plan and pointed out the distance between her subdivision and the property in question. She commended the reduction in lots but stated that the development was still not appropriate. She stated that the average of the existing homes is 6.5 acres. She said that she was concerned of the amount of area that is not available for septic systems. She pointed out that this area has a lot of large slopes and tree lines, which eliminates even more area for septic fields. She stated that 3 lots would be ideal for this area and is what was proposed in his original covenants.

Don Steele, 913 Jill Place, Lafayette, IN, explained the location of his lot in relationship to this property. He stated that he was in opposition to this petition. He said that if this development were built he would lose the peace and quiet he moved there for. He stated that it was not right that someone could change the covenants and restrictions without the approval of 100% of the existing residents. He disagreed with the parameters of the 1-acre rural estate requirement. He compared this property to a mountain and explained that most of it is ravine and not buildable. He suggested that rural estates should require 1-acre of flat land. He reiterated that this property does not have enough space for houses, wells and septic systems. He said that he would prefer this property have a minimum of 2 acre lots and at least 1-acre of it be flat. He pointed out that there were no speakers in favor of this petition, but several in opposition. He agreed that it should be 3-lots and suggested combining lots 2 and 3.

Dan Collins, 7602 Amanda Lane, Lafayette, IN, stated that he would be in support of this petition if it were reduced to 3-lots.

Myra Steele, 913 Jill Place, Lafayette, IN, informed the Commission that when she purchased her land, she originally looked at the property in question and at the time was all one lot. She said that one of the reasons she chose the site she did was because all of the surrounding lots were large. She stated that she moved to this area for the nature, trees, peace, quiet and tranquility. She agreed that this should not be any more than 3 lots. She said that everyone should see how much of this property was wood and ravines. She stated that it would be very difficult to build on and in order to construct this subdivision, the entire look of the land, trees and subdivision would have to be changed.

Linda McElderry, 7736 Amanda Lane, Lafayette, IN, stated that she was in opposition to this petition. She said that this property should remain large lots because it is out in the country. She pointed out that approving this petition would set a precedent for Shelby Township.

Charlene Kuhn, 7501 Amanda Lane, Lafayette, IN, reiterated that due to the nature of the land that this property should only be 3-lots.

Bob Gross presented an aerial photograph with a better view of the property. He explained that the photograph included GIS contours and property lines. He pointed out that there is a 10-acre tract between this property and the existing subdivision and none of the properties adjoin this one. He stated that there was 800-feet and a ravine between the existing subdivision and the proposed subdivision.

Steve Schreckengast asked if there were separate entrances for each subdivision.

Bob Gross replied affirmatively. He stated that these were nice lots and had plenty of room for septic and wells. He mentioned that while he was conducting the survey, he could not see through the woods to other residences.

Steve Schreckengast asked for clarification on the property lines.

Bob Gross pointed out the property lines and explained the locations in relationship to this property.

KD Benson asked if there was an original covenant restricting this land to no more than three lots.

Bob Gross stated that he did not have any information on a covenant.

Gregg Sutter stated that there was an original covenant.

KD Benson asked for confirmation that everyone who purchased land around here was under the impression that there would be 3-lots on this property. She asked Jay Seeger if a restrictive covenant could be ignored.

Jay Seeger stated that whether or not he could build as proposed depended on the rezone. He explained that the covenants were separate and even if the rezone is approved, the covenants are still in effect and could be enforced.

KD Benson asked for confirmation that if a 4-lot development is approved; the petitioner could still be taken to court to enforce the covenant of 3-lots only.

Jay Seeger stated that the Commission would not take the petitioner to court, but a neighboring property owner could.

Karl Rutherford pointed out that there was only one house actually in the subdivision that had rights to take the petitioner to court. He recognized Sue Collins because he wanted a clear answer on whether or not the existing subdivision adjoins the proposed subdivision.

Sue Collins pointed out the location of the existing subdivision on the aerial.

The Commission voted by ballot 5 yes – 8 no to recommend denial of **Z-2129—R. GREGG SUTTER (Abingdon Rural Estate) (AW TO RE)** to the Tippecanoe County Commissioners.

Yes votes

Kathy Vernon
Jeff Kessler
Steve Schreckengast
KD Benson
Gary Schroeder

No votes

John Knochel
Ashley Stevenson
James Miller
Jan Mills
Mark Hermodson
Jack Rhoda
Karl Rutherford
David Williams

KD Benson asked if the number of lots is determined during the subdivision process.

Sallie Fahey stated that if the rezone is approved a plat can be submitted with 4 or fewer lots.

Karl Rutherford asked for confirmation that 4-lots could be submitted even though the covenants say 3-lots.

Sallie Fahey stated that frequently there are conditions on subdivision, which specifically state they are enforceable by the Plan Commission. She explained that unless the conditions state a covenant is enforceable by the Plan Commission, then the Plan Commission has no right to enforce it.

James Hawley explained that the covenant in question is not part of the subdivision, but a private agreement between the petitioner and the one existing resident.

Karl Rutherford pointed out that the rural estate ordinance is being used to further divide parcelizations.

James Hawley explained that in this case it was the 12-acres left over and a tract that could not be divided anymore through parcelizations.

Sallie Fahey stated that these issues were raised during the development of the rural estate ordinance. She pointed out that the Commission specifically indicated that left overs from parcelizations would be eligible.

Karl Rutherford stated that he was concerned that the Commission originally granted this under the impression that this would only be 3-lots.

James Hawley replied negatively. He said as far as the Commission was concerned, this was a 10-acre tract.

Karl Rutherford stated that according to the one existing resident, there was a covenant restricting it to 3-lots.

James Hawley reiterated that was a private agreement between the existing resident and the petitioner.

- 6. Z-2132—ABBINGTON DEVELOPMENT, LLC (NB TO GB):** Petitioner is requesting rezoning of 13.23 acres located on the northwest corner of Klondike and Lindberg Roads, Wabash 10 (SE) 23-5

Jeff Kessler moved to hear and approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey recapped the staff recommendation of denial.

James Hawley presented slides of the zoning map and aerial photo.

Joseph T. Bumbleburg stated that this is part of a mixed use development that was proposed at last month's Area Plan Commission meeting. He stressed that this development has a 100% reduction of R3 zoning and a 50% reduction of commercial zoning. He explained that the petitioner was requesting GB zoning because there was not a market for NB zoning at this location. He informed the Commission that the petitioner has been in negotiations with the public library to donate 2-acres. He reiterated that there has been a 50% reduction of commercial zoning and a 100% reduction in R3 zoning. He asked for approval.

Sallie Fahey read into the record the following letters of opposition:

Les and Peg Bryan, 2134 Robinhood Lane, West Lafayette, IN.

Dennis and Lindsey Minchella, 177 Drury Lane, West Lafayette, IN.

DF Smith, 3125 Old Oak Drive, West Lafayette, IN, stated that over the past 2-3 years this area has been overwhelmed with student housing and apartment complexes. He said that the infrastructure couldn't support everything that is going in this area. He mentioned that the township is concerned with a GB zone for this property because there is no control over what type of business will be there. He pointed out that emergency runs have gone up 100% over the last few years. He asked for denial.

KD Benson asked if a library could be in an NB zone.

Sallie Fahey replied affirmatively.

The Commission voted by ballot 10 yes – 3 no to recommend approval of **Z-2132—ABBINGTON DEVELOPMENT, LLC (NB TO GB)** to the Tippecanoe County Commissioners.

Yes votes

James Miller
John Knochel
Jan Mills
KD Benson
Mark Hermodson
Jack Rhoda
Karl Rutherford
David Williams
Steve Schreckengast
Gary Schroeder

No votes

Jeff Kessler
Kathy Vernon
Ashley Stevenson

C. SUBDIVISIONS

- 1. S-3335--BAYWATER TOWNHOMES (MAJOR-PRELIMINARY PLAT):**

Petitioner is seeking primary approval for a 1-lot multi-family subdivision on 9.5 acres. The project will consist of 18 buildings with a total of 138 units, located north of US 52, at the southeast corner of Paramount Drive and Ledyard Street, in Wabash 2 (NE) 23-5. CONTINUED FROM THE JUNE MEETING.

Jeff Kessler moved to hear and approve the above-described request. Mark Hermodson seconded the motion.

Sallie Fahey stated that the petitioner has requested permission to bond. She read the staff report with recommendation of conditional primary approval contingent on the following conditions:

Conditions

1. The private street name "Baywater Drive" shall be replaced with an approved name in the construction plans and final plat.

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

2. American Suburban Utilities, Inc. shall approve the sanitary sewer plans.
3. Indiana-American Water Company, Inc. shall approve the water plans.
4. The fire hydrants shall be approved by the Wabash Township Fire Department. Plans for the actual placement of the hydrants shall be approved by the Indiana-American Water Company in cooperation with the Fire Department.
5. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District and meeting the requirements of the County Drainage Board as required by Tippecanoe County Ordinance #93-18-CM.
6. The County Drainage Board shall approve the drainage plans.
7. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.
8. The required bufferyard(s) shall be shown with the standard plant unit details. The bufferyard(s) shall be installed as part of required public improvements.

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

9. Except for the approved entrance, a "No Vehicular Access" statement shall be platted along the Paramount Drive and Ledyard Street right-of-way lines.
10. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
11. All required building setbacks shall be platted.
12. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

13. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

James Hawley presented slides of the zoning map, aerial photo and plat.

Joseph T. Bumbleburg concurred with the staff report. He mentioned that the green space and bufferyards meet the requirements. He requested permission to bond and mentioned there are no variances being sought. He said that the conditions are standard and easily meet.

The Commission voted by ballot 13 yes to 0 no to permit bonding.

The Commission voted by ballot 13 yes – 0 no for conditional primary approval of **S-3335--BAYWATER TOWNHOMES (MAJOR-PRELIMINARY PLAT)**.

V. ADMINISTRATIVE MATTERS

James Hawley informed the Commission that he would be on vacation the week of July 21-25.

VI. APPROVAL OF THE AUGUST 2003 EXECUTIVE COMMITTEE AGENDA

Jeff Kessler moved that the following subdivision petitions be placed on the August 6, 2003 Executive Committee Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

S-3290- RED HAWK RIDGE SUBDIVISION (MINOR –SKETCH)

RE-0015-RUTAN RIDGE SUBDIVISION (RURAL ESTATE PRELIMINARY)

RE-0016- BOOTHE FARMS SUBDIVISION (RURAL ESTATE PRELIMINARY)

S-3371- ORCHARD SUBDIVISION, SECTION 1, PHASE 3-REPLAT OF LOTS 55 & 85 (MINOR SKETCH)

S-3372- ROCKING "J" MINOR SUBDIVISION (MINOR SKETCH)

Kathy Vernon seconded and the motion carried by voice vote.

VII. DETERMINATION OF VARIANCES -- Area Board of Zoning Appeals

Jeff Kessler moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute.

BZA—1642- HAWKINS OUTDOOR ADVERTISING

BZA—1643—BROTHERS OF WEST LAFAYETTE, INC.

BZA—1644—GREGORY A. JACOBS.

Kathy Vernon seconded and the motion carried by voice vote.

Jeff Kessler moved that with regard to the following petitions, the sign ordinance be strictly adhered to:

BZA—1642- HAWKINS OUTDOOR ADVERTISING

BZA—1643—BROTHERS OF WEST LAFAYETTE, INC.

Kathy Vernon seconded and the motion carried by voice vote.

VIII. DIRECTOR'S REPORT

Jan Mills asked how soon the applications for the Executive Director candidates would be distributed.

James Hawley stated that Jay Seeger would be passing them out in a few minutes. He mentioned that it was time to announce the date and time of the APC Executive Session.

Jack Rhoda stated that the APC Executive Session to conduct prescreening would be July 31, 2003 at 4:30 PM.

*Discussion on meeting date for the Executive Session. Session changed to **6:30 PM** on July 31, 2003.*

Jay Seeger passed out the applications and stated that they are not public record at this time.

Discussion on the date for the next Budget and Personnel meeting. Meeting set for August 5, 4:30 PM.

Jack Rhoda thanked the Commissioners for high attendance during a summer meeting. He asked that everyone make a continued effort to attend the public meetings.

James Hawley stated that next month he would present an attendance recap of the past year.

IX. CITIZENS' COMMENTS AND GRIEVANCES

X. ADJOURNMENT

Jeff Kessler moved for adjournment. Mark Hermodson seconded and the motion carried by voice vote.

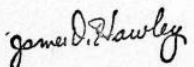
The meeting was adjourned at 10:00 P.M.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



James D. Hawley
Executive Director